(3)

(1) C.S. 100/-

SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 5047 /2005

Petitioner

Vishnucharan Sonwani, aged about 40 years, son of Shri Siyaram Sonwani, Assistant Teacher, Middle School, Goharapadar, Vikas Khand Mainpur, Tahsil – Gariyaband, Distt. Raipur (Chhattisgarh)

5111/05
Ch. Ramesh
29/9/05

VERSUS

RESPONDENTS

1. State of Chhattisgarh, through – its Secretary, Department of Tribal Welfare, Dau Kalyan Singh Bhawan, Raipur (CG)

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2. The District Collector, Raipur (Chhattisgarh)

3. The Project Administrator, Integrated Tribal Development Project, Gariyaband, Distt. Raipur (C.G.)

4. The Block Education Officer, Block – Mainpur, Distt. Raipur (Chhattisgarh)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

01) PARTICULARS OF THE PETITIOINER

As mentioned in the cause title.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP 5047/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21/10/2005

Shri A.N. Bhakta, learned counsel for the petitioner.

Shri Akhil Agrawal, Panel Lawyer for the State/respondents.

Heard.

By way of this Writ Petition filed under Article 226/227 of Constitution of India, the petitioner, who is working on the post of Assistant Teacher, has been transferred from Middle School, Goharapadar,Vikas Khand, Mainpur Tehsil Gariaband, District Raipur to Primary School, Bazari, Vikas Khand, Mainpur, has challenged the validity of his transfer order which was issued on 31/8/2005 and communicated vide order dated 21/9/2005.

The only contention of learned counsel for the petitioner is that the daughter of the petitioner namely Ku. Mukti Sonwani is studying in Class-XII in Goharapadar and it is difficult for the petitioner to manage her studies.

Learned counsel for the petitioner submits that Bazari is at a distance of 15-16 kms. from Goharapadar.

The law in relation to interference by the Courts in the matter of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendrikya Vidyalaya Sangathan –Vs- Damodar Prasad Pandey, 2004 AIR SCW 5563*** observed that the transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by *mala-fide* or infraction of any prescribed norms of principles governing the transfer. (please see *Ambani Kanta Ray –*

XI-HC-78

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Vs- State of Orissa – 1995 (Suppl.) 4 SCC 169). Unless the order of transfer is vitiated by *mala fide* or is made in violation of operative guidelines, the Court cannot interfere with it. (See Union of India – Vs- S.L. Abbas AIR 1993 SC 2444). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of India & others –Vs- Janardan Debanath & another (2004) 4 SCC 245***, it was observed as follows:

> *"No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such order passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in* ***National Hydroelectric Power Corpn. Ltd. –Vs- Shri Bhagwan (2001) 8 SCC 574.***

XI-HC-78

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	Admittedly, the petitioner is posted on a transferable post and learned counsel for the petitioner could not point out any ground of malafide or a ground which may show that the impugned transfer has been effected violating any statutory rules. I am not inclined to interfere in any such orders. The petition has no merit. The same is dismissed in limine. So far as personal difficulties of the petitioner are concerned, the petitioner is free to file a fresh representation before the concerned authority and if such a representation is filed by the petitioner, the concerned authority shall dispose of the same in accordance with law. C.C. as per rules. **Sd/-** **Sunil Kumar Sinha** **Judge**	